

Summary Minutes of the
Delta Protection Commission
December 16, 2010

San Joaquin County WorkNet Building
56 S. Lincoln Street
Stockton, California 95203

ADMINISTRATIVE AGENDA

1. Call to Order/Flag Salute.

Chair Nottoli called the meeting to order at 5:40 p.m.

2. Welcome Commission Members.

Chair Nottoli welcomed Commissioners and guests to the meeting.

3. Roll Call.

Present: Chair Nottoli; Commissioners Bugsch, Eggman, McGowan, Piepho, Reagan, Ruhstaller, Scriven, van Loben Sels and Vick.

Absent: Commissioners Cabaldon, Ferguson, Pegos and Snow.

4. Public Comment. Opportunity for Members of the Public to Address the Commission on Items Not on the Agenda.

No one addressed the Commission.

CONSENT AGENDA

5. Approve Minutes of the October 28, 2010 Meeting of the Commission.

6. Approve 2011 Commission Meeting Calendar.

7. Receive Informational Update On Working Landscapes Program Developed and Administered by the Commission in Partnership with Ducks Unlimited and Hart Restoration.

8. Receive Informational Update on the National Heritage Area Process by Consulting Team Relative to the Feasibility Study Status and Related Federal Legislation CEL 10454.

9. Receive Information on a Public Workshop to Promote Agri-Tourism in the Delta Sponsored by University of California, Davis Small Farm Program and Co-Sponsored by the Commission.

Commissioner Piepho moved approval of the Consent Agenda; Vice Chair Reagan seconded. The Consent Agenda was approved unanimously by voice vote.

REGULAR AGENDA

10. Receive Presentation From Commission Counsel Regarding Respective Jurisdictions of the Commission and the Delta Stewardship Council (Council).

Matt Campbell, Office of the Attorney General, gave an overview of the jurisdictions between the Commission and the Council. Mr. Campbell reported that the Commission retains review and appeal authority over land use issues because of the Delta Protection Act (Act), however that authority is only limited to the Primary Zone. Mr. Campbell said that changes to the Act left intact, provisions that the Commission cannot exercise powers and/or duties that conflict with other state agencies or provisions under the water code—moreover, the Council is codified in the water code. He further said that while the Commission’s authority is only limited to the Primary Zone, the Council’s authority is not.

Mr. Campbell said that the Council must adopt and enforce a Delta Plan to meet the co-equal goals of the Delta and be compatible with federal plan. The Council can review certain types of covered actions, including land use for inclusion in the Delta Plan and those actions shall be guided by findings, policies and codes. Mr. Campbell stated that both the Delta Reform Act and the Delta Protection Act can work collaboratively but it is in the Commission’s best interest to make recommendations to the Council for implementation into the Delta Plan. He also stated that the Commission can exercise land use authority unless it conflicts with the Council. Mr. Campbell stated that while the Delta Reform Act would prevail, it is confusing as to what extent the Council would review land use decisions of the Commission.

Commissioner Reagan asked if the Bay Conservation and Development Commission (BCDC) had control over the Suisun Marsh, and how would that control conflict with the Delta Plan. Mr. Campbell responded that those questions should be addressed by BCDC.

Commissioner McGowan asked what role has the Commission had over the Bay Delta Conservation Plan (BDCP). He also asked what state agency presides over BDCP. Mr. Campbell responded the Commission has no role over BDCP—the Commission can comment on BDCP but cannot take jurisdictional action.

11. Receive Informational Update on Legacy Towns.

Michael Machado reported that Commissioners Cabaldon and McGowan requested information on the consideration of removing legacy towns from the Primary Zone and/or recommend an alternate scheme of zoning for Legacy Towns. Mr. Machado provided a document that outlined issues associated with the zoning issues and said that with the complex set of economic, political, and social issues surrounding the towns, it would be premature to propose an action to remove Legacy towns from the Primary Zone prior to completion of the Economic Sustainability Plan (ESP). He recommended that no action be taken until the ESP is completed.

12. Receive Primary Zone Study Proposed Amendments to the Legal Delta Boundaries Pursuant to Provisions of SB X7 1.

- A. ADOPT Final DRAFT Report, Including Narrative Summary from Consultant Team**
- B. DIRECT Staff to Prepare and Submit Recommendations to the Legislature Regarding the Potential Expansion of or Change to the Primary Zone or the Delta**

Doug Brown, Douglas Environmental, reported that in preparing the study the purpose was to provide the analytical framework for recommendations to the Legislature for six Delta areas of concern. Mr. Brown said the approach was to work closely with the Primary Zone Study Committee (Committee), the Land Use and Resource Management Plan, and the Act to develop a matrix of resource criteria to focus on preserving and enhancing wildlife, recreation, agriculture and Delta as a Place. Committee meetings and community workshops were held and postcards were sent to those in affected areas and the response was good. Based on the matrix, analysis and input, and community meetings, the Committee developed three recommendations: (1) redesignate the study areas of Cosumnes-Mokelumne River (Central), Bethel Island, and Andrus Brannan Island within the Secondary Zone as Primary Zone; (2) maintain Secondary Zone designation for Cosumnes-Mokelumne River (North), Cosumnes-Mokelumne River (South), Isleton and San Joaquin River South Delta Study area; (3) redesignate Primary Zone areas within the City of Rio Vista as Secondary Zone. Mr. Brown said there was no recommendation related to a letter submitted by the City of Rio Vista to include the entire City in the Secondary Zone as that would include a modification to the Legal Delta boundary.

Chair Nottoli thanked Mr. Brown for his work and noted that letters regarding the Study were received from the City of Isleton and the County of Yolo.

Commissioner van Loben Sels stated that the word redesignate was misleading with regards to the City of Rio Vista, as the City has always been in the Primary Zone. He asked that the word be changed to designate.

Commissioner Bugsch asked how the Commission would anticipate the impacts to the Legacy Towns in their recommendations to the Legislature. Mr. Machado responded that the Commission would have to look at zoning because some of the restrictions of the Primary Zone stand in the way of trying to meet some of the economic issues raised as to allowing Legacy Towns to sustain themselves from an economic perspective.

Mr. Machado said the Commission would need to approve the following three actions: (1) accept the Final Draft Report of the Primary Zone Study with corrections, and authorize staff to release the study; (2) make a recommendation to the Legislature; and (3) address the issue of additional study of changes to the Primary Zone.

Commissioner Vick commented that the City of Rio Vista is fine with the consultant recommendations. She added that the City of Rio Vista does not want the entire City placed in the Secondary Zone and asked for the Commission's help in dealing with the Rio Vista waterfront issue and access better flood control. Mr. Machado responded that the City has enough latitude and should work with its local Legislators. Commissioner van Loben Sels commented that the City of Rio Vista should work with other towns in the same situation, along with the Delta Stewardship Council and the Legislature.

Bill Geyer, Resource Landowners Coalition commended the Commission for its accomplishment. Mr. Geyer said he agrees with Option 3 as it will give a good look at the Legacy Towns. He also said the issue with Andrus-Brannan/Oxbow-Tyler Island/Isleton

combined with the City of Isleton's request should be looked at as it is similar to the issues with the Legacy Towns.

Commissioner McGowan moved that the Commission accept the Final Draft Report of the Primary Zone Study, authorize staff to release the Study, with the report modified to change the name of the Narrative Summary to the Executive Summary and make the Executive Summary part of the Primary Zone Study, and change the word redesignate to designate with respect to the City of Rio Vista; Commissioner Reagan seconded. The motion was approved unanimously by voice vote.

Commissioner McGowan moved that the Commission accept the report and inform the Legislature that because the Commission is in the process of doing the ESP mandated by the Delta Reform Act of 2009, and that the ESP in addressing the question of socioeconomic sustainability in the Delta will have to consider the current Primary and Secondary Zone designations in the Delta and the ESP may better define changes that should be made to the respective zonings, a recommendation for changes to the Primary Zone shall be made upon completion of the Economic Sustainability Plan and submission to the Legislature and the Delta Stewardship Council; Commissioner Vick seconded. The motion was approved unanimously by voice vote.

Staff was directed to inform the Legislature by letter of the action, in addition, recommend that they hold in abeyance any action with respect to the Primary Study until the ESP has been completed and the Commission forwards its recommendations with respect to zoning changes to the Legislature.

Commissioner McGowan moved that the resource limitations and the Economic Sustainability Plan's possible impact on the Primary and Secondary Zones, that no further studies of changes to the Primary Zone or Phase II study be commenced; Commissioner Reagan seconded. The motion was approved unanimously by voice vote.

Commissioner Piepho asked that the letter submitted to the Legislature clarify that the Commission is submitting its report, tried to be as timely and complete as possible; however, the Legislature should wait until the Economic Sustainability Plan is finished.

13. Receive Presentation on the Economic Sustainability Plan Framework Study.

A. ADOPT Economic Sustainability Plan Phase I Framework Final DRAFT Report Volume I and Volume II.

Matt Kowta, BAE Consulting, distributed both volumes of the ESP Framework Study. Volume I includes the framework which presents the key components including the key drivers, industries, assets and factors that will affect the economy as a whole, and specific sectors of the Delta economy. The framework outlines issues the ESP will need to address to articulate the value of the Delta economy and what is necessary to ensure sustainability over time. Volume II includes background information and will serve as a starting point for additional research. Both volumes incorporate revisions to the draft document. Comments were received from public meetings held throughout the Delta, an on-line survey and from outside agencies.

Bill Geyer, Resource Landowners Coalition, stated that greater attention should be paid to the role of government in the ESP. Commissioner Piepho responded that the role of government has been reflected extensively in the ESP.

Commissioner McGowan moved to accept the Economic Sustainability Phase I Framework Final Draft Report Volume I and Volume II, and authorize staff to release the Phase I Framework Report as the Delta Protection Commission Economic Sustainability Plan Framework Study, Volume I and Volume II; Commissioner Reagan seconded. The motion was approved unanimously by voice vote.

14. Receive Report From the Executive Committee and Executive Director, Including Informational Updates on Delta Stewardship Council and Delta Conservancy Activities, and Other Delta Initiatives and Commission Activities Underway, and Act on Recommendations Pursuant to Commission Member Discussion, if Determined Timely.

Chair Nottoli reported that the Delta Stewardship Council was in session on December 16th and 17th. He also reported that the Delta Plan is progressing rapidly, with scoping meetings beginning in January in northern and southern California. Chair Nottoli asked that time is reserved on the next Commission meeting agenda to discuss the Commission's comments on the project.

Commissioner Piepho reported that the Delta Conservancy held interviews for the Executive Director position.

Mr. Machado reported that the Request for Proposals (RFP) for the Economic Sustainability Plan has been circulated. RFP's are due no later than 2:00 p.m. on December 21, 2010. He also reported that staff met with Assembly member Mariko Yamada to discuss Commission projects; met with the Department of Fish and Game, Ducks Unlimited and Hart Restoration to view projects sites for the Delta Working Landscapes project; and participated in a Delta tour of Bract Tract and Canal Ranch with members of the Delta Stewardship Council.

15. Comments and Announcements From Members of the Commission.

Commissioner Scriven asked if the change in Administration would constitute a change in direction for the Council. Chair Nottoli responded there would be no change for the Council.

Commissioner Vick thanked the consultants and Commission staff for their work on the Primary Zone Study and Economic Sustainability Plan Framework Study.

16. ADJOURN.

The meeting was adjourned at 7:55 p.m.